

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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KARON DEOPERSAUD,

Petitioner,

-against-

UNITED STATES OF AMERICA,

Respondent.
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FEUERSTEIN, District Judge:

On July 18, 2012, under docket number 12-CV-3623, petitioner Karon Deopersaud ("petitioner") filed a habeas corpus petition pursuant to 28 U.S.C. § 2255 to vacate, set aside or correct his sentence. By Order to Show Cause issued on September 11, 2012, respondent United States (the "government") was ordered to show cause why a writ of habeas corpus should not issue. DE 4. On October 12, 2012, the government filed its opposition to petitioner's application. DE 5. A review of the docket shows that petitioner's reply was due within twenty-one (21) days of his receipt of the government's response, but he has neither filed, nor requested an extension of time to file, his reply. On May 5, 2014, petitioner filed a second 28 U.S.C. § 2255 petition under docket number 14-CV-2939, which requests the same relief as petitioner's original application.

The "Second Circuit has long adhered to the first-filed doctrine in deciding which case to dismiss where there are competing litigations." *Kellen Co., Inc. v. Calphalon Corp.*, 54 F. Supp. 2d 218, 221 (S.D.N.Y. 1999) (citing cases). See *Emp'rs Ins. of Wausau v. Fox Entm't Group, Inc.*, 522 F.3d 271, 274-75 (2d Cir. 2008) ("As a general rule, '[w]here there are two competing lawsuits, the first suit should have priority.' ") (quoting *First City Nat'l Bank & Trust Co. v.*

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ORDER
12-CV-3623(SJF)
14-CV-2939(SJF)

Simmons, 878 F.2d 76, 79 (2d Cir. 1989)).

Accordingly, because the claims alleged in docket number 12-CV-3623, i.e., petitioner pleaded guilty to brandishing a firearm and to robbery, but not to paying restitution and a special assessment fee, are identical to the claims alleged in docket number 14-CV-2939, the Court consolidates docket number 14-CV-2939 with docket number 12-CV-3623. *See Tribble v. Killian*, 632 F. Supp. 2d. 358, 362 (S.D.N.Y. 2009) (noting that courts have discretion to dismiss duplicative habeas applications); *Colon v. Jones*, 645 F. Supp. 150, 151 n.2 (S.D.N.Y. 1986) (consolidating duplicative habeas petitions where claims were virtually identical).

The Clerk of the Court shall close docket number 14-CV-2939 and direct any further filings in that case to docket number 12-CV-3623. Furthermore, petitioner's reply, if any, is due within twenty-one (21) days of his receipt of this Order.

SO ORDERED.

Dated: June 6, 2014
Central Islip, New York

s/ Sandra J. Feuerstein

Sandra J. Feuerstein, U.S.D.J.